

Legal Services Corporation

§ 1611.7

(E) Other significant factors related to financial inability to afford legal assistance, which may include evidence of a prior administrative or judicial determination that the person's present lack of income results from refusal or unwillingness, without good cause, to seek or accept suitable employment.

(3)(A) If a recipient tentatively determines to serve a client over the maximum income level on the basis of factors listed in § 1611.5(b)(1), the factors listed in § 1611.5(b)(2) shall also be used before reaching a final determination.

(B) If a recipient tentatively determines not to serve a client under the maximum income level on the basis of factors listed in § 1611.5(b)(2), the factors listed in § 1611.5(b)(1) must also be used before reaching a final determination.

(c) A recipient may provide legal assistance to a group, corporation, or association if it is primarily composed of persons eligible for legal assistance under the Act and if it provides information showing that it lacks, and has no practical means of obtaining, funds to retain private counsel.

§ 1611.6 Asset ceilings.

(a) By January 30, 1984, and annually thereafter, the governing body of the recipient shall establish and transmit to the Corporation guidelines incorporating specific and reasonable asset ceilings, including both liquid and non-liquid assets, to be utilized in determining eligibility for services. The guidelines shall consider the economy of the service area and the relative cost-of-living of low-income persons so as to ensure the availability of services to those in the greatest economic and legal need.

(b) The guidelines shall be consistent with the recipient's priorities established in accordance with 45 CFR 1620 and special consideration shall be given to the legal needs of the elderly, institutionalized, and handicapped.

(c) Assets considered shall include all liquid and non-liquid assets of all persons who are resident members of a family unit, except that a recipient may exclude the principal residence of a client. The guidelines shall take into account impediments to an individual's

access to assets of the family unit or household.

(d) Reasonable equity value in work-related equipment which is essential to the employment or self-employment of an applicant or member of a family unit, shall not be utilized to disqualify an applicant, provided that the owner is attempting to produce income consistent with its fair market value.

(e) The governing body may establish authority for the project director to waive the ceilings on minimum allowable assets in unusual or extremely meritorious situations. In the event that a waiver is granted, that decision shall be documented and included in the client's file. The recipient shall keep such other records as will provide information to the Corporation as to the number of clients so served and the factual basis for the decisions made.

§ 1611.7 Manner of determining eligibility.

(a) A recipient shall adopt a simple form and procedure to obtain information to determine eligibility in a manner that promotes the development of trust between attorney and client. The form and procedure adopted shall be subject to approval by the Corporation, and the information obtained shall be preserved, in a manner that protects the identity of the client, for audit by the Corporation.

(b) If there is substantial reason to doubt the accuracy of the information, a recipient shall make appropriate inquiry to verify it, in a manner consistent with an attorney-client relationship.

(c) Information furnished to a recipient by a client to establish financial eligibility shall not be disclosed to any person who is not employed by the recipient in a manner that permits identification of the client, without express written consent of the client, except that the recipient shall provide such information to the Corporation when:

(1) The Corporation is investigating allegations that question the financial eligibility of a previously identified client and the recipient's representation thereof;

§ 1611.8

(2) The information sought by the Corporation relates solely to the financial eligibility of that particular client;

(3) The information sought by the Corporation is necessary to confirm or deny specific allegations relating to that particular client's financial eligibility and the recipient's representation thereof; and

(4) The specific information sought by the Corporation is not protected by the attorney-client privilege.

The information provided to the Corporation by the recipient shall not be disclosed to any person who is not employed by the Corporation. Prior to providing the information to the Corporation, the recipient shall notify the client that the recipient is required to provide to the Corporation the information sought.

§ 1611.8 Retainer agreement.

(a) A recipient shall execute a written retainer agreement, in a form approved by the Corporation, with each client who receives legal services from the recipient. The retainer agreement shall be executed when representation commences (or, if not possible owing to

45 CFR Ch. XVI (10–1–03 Edition)

an emergency situation, as soon thereafter as is practicable), and shall clearly identify the relationship between the client and the recipient, the matter in which representation is sought, the nature of the legal services to be provided, and the rights and responsibilities of the client. The recipient shall retain the executed retainer agreement as part of the client's file, and shall make the agreement available for review by the Corporation in a manner which protects the identity of the client.

(b) A recipient is not required to execute a written retainer agreement when the only service to be provided is brief advice and consultation.

§ 1611.9 Change in circumstances.

If an eligible client becomes ineligible through a change in circumstances, a recipient shall discontinue representation if the change in circumstances is sufficiently likely to continue for the client to afford private legal assistance, and discontinuation is not inconsistent with the attorney's professional responsibilities.

APPENDIX A OF PART 1611

LEGAL SERVICES CORPORATION 2003 POVERTY GUIDELINES*

Size of family unit	48 Contiguous States and the District of Columbia ⁱ	Alaska ⁱⁱ	Hawaii ⁱⁱⁱ
1	\$11,225	\$14,013	\$12,913
2	15,150	18,925	17,425
3	19,075	23,838	21,938
4	23,000	28,750	26,450
5	26,925	33,663	30,963
6	30,850	38,575	35,475
7	34,775	43,488	39,988
8	38,700	48,400	44,500

*The figures in this table represent 125% of the poverty guidelines by family size as determined by the Department of Health and Human Services.

ⁱFor family units with more than eight members, add \$3,925 for each additional member in a family.

ⁱⁱFor family units with more than eight members, add \$4,913 for each additional member in a family.

ⁱⁱⁱFor family units with more than eight members, add \$4,513 for each additional member in a family.

[68 FR 8856, Feb. 26, 2003]

PART 1612—RESTRICTIONS ON LOBBYING AND CERTAIN OTHER ACTIVITIES

Sec.

1612.1 Purpose.

1612.2 Definitions.

1612.3 Prohibited legislative and administrative activities.

1612.4 Grassroots lobbying.

1612.5 Permissible activities using any funds.

1612.6 Permissible activities using non-LSC funds.

1612.7 Public demonstrations and activities.

1612.8 Training.

1612.9 Organizing.